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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,878	07/03/2001	James A. McKain	A95006C2D	3541

26643 7590 11/28/2006

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EXAMINER
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NGUYEN, LUONG TRUNG

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/898,878

Applicant(s)

MCKAIN ET AL.

Examiner

LUONG T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,11 and 15 is/are rejected.
- 7) ☒ Claim(s) 2-5,7-10,12-14 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/21/2006</u>   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on 9/18/2006 have been fully considered but they are not persuasive.

In re pages 6-7, Applicants argue that Lang does not teach that a user may input an attribute which is *a value selected by the user from a set of three or more ordered values indicative of an assessment by the user of merit of the clip*.

In response, regarding claim 1, Applicants amended claim 1 with the limitation “a user interface for allowing user input of an attribute for storage with the clip, wherein the attribute is value selected by the user from a set of at least three ordered values indicative of an assessment by the user of merit of the clip.” The Examiner considers that Lang does disclose this limitation. Lang discloses a control panel (user interface) for allowing the user to perform editing operation, in which audio commentaries (attribute value selected by the user from a set of at least three order values indicative of an assessment by the user of merit of the clip) to be added to silent video representation (clip), column 9, line 64 through column 10, line 32. It is noted that since Lang discloses plurality of audio commentaries are added to the video representation (column 9, line 64 through column 10, line 32), the “plurality of audio commentaries” read on the limitation “the attribute is value selected by the user from a set of at least three ordered values.”

In re page 7, Applicants argue that audio signals are quite distinct from ordered values indicative of clip merit.

In response, it is noted that Lang discloses plurality of audio commentaries (column 10, lines 25-30), the examiner considers that “plurality of audio commentaries” can read as a set at least three ordered values. Noted that there are no specific detail of limitation “attribute” or “value” in claim 1. The PTO must give claim words their broadest reasonable interpretation in their ordinary usage, as understood by one of ordinary skill in the art. *In re Morris*, 127, F. 3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 6, 11, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Lang (US 5,164,839).

Regarding claims 1, 6, Lang discloses a system for capturing video data defining a moving picture, comprising means for receiving the video data from a source (AVRU 11, Figure 2, Column 3, Lines 50-67); means for storing (memory 13, Figure 2), in real time as the video data is received, the video data as a clip (video segments, Column 6, Line 50; Column 10, Lines 10-19) in a computer data file on a non-volatile random-access computer-readable and rewritable medium (Column 6, Lines 28-40) according to a trigger signal associated with the source; means (input port 17, Figure 2) for providing for storage of an attribute (audio, Column 10, Lines 10-32) associated with the clip; and a user interface (control panel, Column 10, Lines 10-32) for

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allowing user input of an attribute for storage with the clip, wherein the attribute is value selected by the user from a set of at least three ordered values indicative of an assessment by the user of merit of the clip (Column 10, Lines 10-32).

Regarding claim 11, 15, Lang discloses a system for editing a motion picture, comprising means for storing (memory 13, Figure 2) video data as a plurality of clips (video segments, Column 6, Line 50; Column 10, Lines 10-19) in a plurality of computer data files on a non-volatile random-access computer-readable and rewritable medium (Column 6, Lines 28-40), wherein at least some of the plurality of clips have an attribute associated with the clip, wherein the attribute is a value from a set of at least three ordered values indicative of an assessment of merit of the clip (Column 10, Lines 10-32); means for allowing a user to supply a desired attribute (input port 17, Figure 2, Column 10, Lines 20-30); means for selecting one or more clips from the plurality of clips according to the attribute associated with the clip and the desired attribute supplied by user (select individual frame, Column 7, Lines 1-5); and means for presenting the selected clips as options to the user for insertion into motion picture (flat panel display, Column 6, Line 60 – Column 7, Line 5).

4. Claims 2-5, 7-10, 12-14, 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T. NGUYEN whose telephone number is (571) 272-7315. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID L. OMETZ can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN *LN*  
11/26/06

A handwritten signature in black ink, appearing to read 'David Ometz', with a long horizontal line extending to the right.

DAVID OMETZ  
SUPERVISORY PATENT EXAMINER